



California Fair Political Practices Commission

April 7, 1989

Charles E. Knutsen, Chairman
Democratic Party of San Fernando Valley
9140 Van Nuys Blvd., Suite 213
Panorama City, CA 91402

Re: Your Request for Advice
Our File No. I-89-086

Dear Mr. Knutsen:

This is in response to your request for advice regarding the application of the Political Reform Act (the "Act")¹ to your organization. Because your request is more of a general inquiry rather than a request for advice about a specific decision, we treat your request as one for informal assistance pursuant to Regulation 18329(c) (copy enclosed).²

¹ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

QUESTION

May elected officials or candidates donate "restricted funds"³ to organizations such as the Democratic Party of San Fernando Valley?

CONCLUSION

Candidates or elected officials may not donate such "restricted funds" to organizations such as the Democratic Party of San Fernando Valley.

ANALYSIS

Section 85306 states:

Any person who possesses campaign funds on the effective date of this chapter may expend these funds for any lawful purpose other than to support or oppose a candidacy for elective office.

Regulation 18536.2 (copy enclosed) interprets the phrase "any lawful purpose other than to support or oppose a candidacy for elective office," as that phrase is used in Section 85306.

Regulation 18536.2(a) defines the phrase "lawful purpose" as any purpose, other than personal use, as defined in Chapter 5 (commencing with Section 12400) of Division 9 of the Elections Code.

Regulation 18536.2 specifies when a candidate or elected officeholder makes an expenditure to support or oppose a candidacy for elective office. Under this regulation, all expenditures made by a candidate or elected officeholder are to support or oppose a candidacy for elective office, except for the following:

³ Funds possessed on January 1, 1989, which may be used for any lawful purpose other than to support or oppose a candidacy for elective office pursuant to Section 85306, are referred to as "restricted funds. Regulation 18536.1 adopted by the Commission in November 1988, permitted the use of some of these funds to support or oppose a candidacy for elective office. On February 8, 1989, the Los Angeles County Superior Court ruled the regulation invalid insofar as it allows funds collected prior to the effective date of Proposition 73 to be used now to support or oppose a candidacy for elective office. (California Common Cause v. California Fair Political Practices Commission, Case No. C709383.) Pending further judicial action or adoption of new regulations by the Commission, funds possessed on January 1, 1989 may not be used to support or oppose a candidacy for elective office, but may be used for any other lawful purpose.

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1. Payment of the candidate's or elected officeholder's campaign debts incurred prior to January 1, 1989.

2. Payment of officeholder expenses excluding expenses incurred in connection with newsletters and other campaign activities.

3. Contributions or expenditures to support or oppose any candidate for federal office, any candidate in a state other than California, or any ballot measure other than a measure to recall an elected officer.

(Regulations 18536.2(b)(4)(A)-(C).)

Donation of restricted funds to an organization such as yours is not listed as one of the exceptions in subdivisions (b)(4)(A), (B), and (C) of Regulation 18536.2. Therefore, it is deemed an expenditure to "support or oppose a candidacy for elective office." Accordingly, candidates or elected officials may not donate restricted funds to organizations such as the Democratic Party of the San Fernando Valley.

We anticipate that the Commission will be considering amendments to Regulation 18536.2 at the May Commission meeting. Please contact this office in late April if you wish to obtain a copy of the proposed amendments.

I trust this letter has provided you with the assistance you have requested. If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

Jeevan S. Ahuja
By: Jeevan S. Ahuja
Counsel, Legal Division



DEMOCRATIC PARTY

OF THE SAN FERNANDO VALLEY

~~18540 Sherman Way, Suite 401 - Reseda, California 91335 - (818) 996-8884~~

WE HAVE MOVED TO:

9140 Van Nuys Blvd. #213 - Panorama City, CA 91402 - [818] 893-9833

February 2, 1989

Fair Political Practices Commission
Technical Assistance Office
428 J Street
Sacramento, CA 95804

To Whom It May Concern:

I am the Chair of the Democratic Party/San Fernando Valley, an all volunteer organization. I have a question regarding legislators and/or candidates and campaign funds which can not be used in succeeding campaigns.

Can any portion of campaign funds which cannot be forwarded or which do not have to be returned to donors be donated to organizations such as this organization?

We, as an organization, are not involved with candidates and/or their campaigns. We are an umbrella group which exists, primarily, to provide communication between the Democratic clubs in the San Fernando Valley.

I would appreciate an answer as soon as possible.

Sincerely,

Charles E. Knutsen, Chair

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California Fair Political Practices Commission

February 7, 1989

Charles E. Knutsen
Chairman
Democratic Party of the
San Fernando Valley
9140 Van Nuys Boulevard
Suite 213
Panorama City, CA 91402

Re: Letter No. 89-086

Dear Mr. Knutsen:

Your letter requesting advice under the Political Reform Act was received on February 6, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeevan Ahuja an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

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